CARRIERS—EXTENT OF LIABILITY FOR BAGGAGE UNACCOMPANIED BY PASSENGER.—The plaintiff purchased a ticket to her destination on the defendant's railway and checked her baggage on the ticket. She later decided to take a different route and destroyed the passenger ticket. The baggage was stolen without fault of the defendant. In an action for its value, the defendant pleaded that its liability was only that of a gratuitous bailee. *Held,* that the defendant was liable as an insurer. *Caine v. Cleveland, etc. Ry.* (1921, Mich.) 185 N. W. 765.

It has now become well settled that a carrier is liable for the loss or destruction of baggage as an insurer, even though the owner does not travel on the same train. *St. Louis, etc. Ry. v. Dewitt* (1914) 115 Ark. 578, 171 S. W. 906; *Larned v. Central Ry.* (1911) 81 N. J. L. 571, 79 Atl. 289; *McKibben v. Wisconsin Cent. Ry.* (1907) 100 Minn. 270, 110 N. W. 964; (1912) 46 AM. L. REV. 264; (1911) 9 MICH. L. REV. 707. The ancient rule originated in stage-coach days when baggage was carried as a matter of grace and no checking system existed. It was obviously not an unjust requirement, in view of the methods of transportation, that the passenger accompany his own baggage. *Collins v. Boston & Me. Ry.* (1852, Mass.) 10 Cush. 506. And the rule is still necessary in England, where the passenger is required to identify his luggage at the end of the journey. A situation which has raised more difficulty exists where the owner checks his baggage on a ticket which he never intends to use. The few adjudicated cases on the point have held that the carrying of baggage is incidental only to the carrier and passenger relation and that in purchasing a ticket there is an implied promise to become a passenger. *Marshall v. Pontiac, etc. Ry.* (1901) 126 Mich. 45, 85 N. W. 242; *Wood v. Maine Cent. Ry.* (1903) 98 Me. 98, 56 Atl. 457; *Lusk v. Bloch* (1917, Okla.) 168 Pac. 430. It has also been suggested that such a practice may convert passenger trains into fast freight trains (1914) 50 CAN. L. JOUR. 140; (1914) 78 CENT. L. JOUR. 55. On the other hand it has been considered illogical to reduce the liability of a carrier to that of a gratuitous bailee merely because the owner did not intend to or did not impose the additional burden of carrying him as a passenger. See *Ala. Great So. Ry. v. Knox* (1913) 184 Ala. 485, 63 So. 538. The court, in the instant case, does not expressly overrule *Marshall v. Pontiac, supra,* but sees a distinction in that there was an element of deceit in that case, the plaintiff never having intended to ride as a passenger. Still it is doubtful whether, in view of modern usage and the demands of transportation, the earlier decisions will stand.

EVIDENCE—POWER OF COURT TO ORDER PHYSICAL EXAMINATION OF PLAINTIFF.—The court was empowered by statute to order the physical examination of the plaintiff in an action for personal injuries. N. Y. C. C. P. sec. 873 (C. P. A. sec. 306). A blood test was considered necessary to determine the nature of the injury. The plaintiff objected on the ground that an infection might be caused by the needle in making the puncture required to draw the blood. *Held,* that the court could properly order the plaintiff to submit to such a blood test. *Hayt v. Brewster, Gordon & Co.* (1921) 199 App. Div. 68, 191 N. Y. Supp. 176.

Ever increasing litigation over personal injuries renders important the power of the courts to order the plaintiff to submit to a physical examination for the purpose of determining the nature and extent of the injury. The end sought by allowing an examination is, of course, a nearer approach to the truth. It is clear that in the absence of such a power, there is more room for fraud and the ascertainment of truth becomes practically impossible. In the absence of statute, the authorities are in square conflict as to whether the power exists. The weight of authority, at least in the number of decisions, seems to recognize such a power. 3 Wigmore, *Evidence* (1904) sec. 2220; *Schroeder v. Chicago, etc. Ry.* (1877) 47 Iowa, 375; *Wanek v. Winona* (1899) 78 Minn. 98, 80 N. W. 851; *Cincinnati, etc. Ry. v. Nolan* (1914) 161 Ky. 205, 170 S. W. 650; *Williams v. Chattanooga Iron Works* (1915) 131 Tenn. 683, 176 S. W. 1031; *State v. Troup* (1915) 98 Neb.